IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION.

WRIT PETITION NO.2763 OF 2006

Akhtar Nawaz Llahibux Kamble
and others : Petitioners

versus

Charity Commissioner & ors. : Respondents.

Mr.G.S.Godbole i/by A.L.N.Khatri & Co. for the petitioners.
Ms.S.M.Poddar for Respondent No.9
Mr.S.N.Gawade, AGP, for Respondent Nos.1 to 3.

WITH

CIVIL APPLICATION NO.2264 OF 2006

IN

FIRST APPEAL NO.776 OF 2002

Akhtar Nawaz Illahibux Kamble
and others : Applicants..

And

Mr.Adam Minya Ahmedlal & ors. : Appellants.

versus

Abdul Razzaq Zainuddin
and others : Respondents.

Mr.G.S.Godbole i/by A.L.N.Khatri & Co. for the applicants.

Ms.S.M.Poddar for Respondent Nos.1 to 60.

Mr.S.N.Gawade, AGP, for Respondent No.61.

WITH

WRIT PETITION NO.2729 OF 2006

Adam Minya Ahmed and others : Petitioners.

versus

Charity commissioner and others : Respondents.

None for the petitioners.

Mr.G.S.Godbole i/by A.L.N.Khatri & Co. for applicants-interveners.

Mr.S.N.Gawade, AGP, for Respondent Nos.1 to 3.

CORAM : D.G.DESHPANDE

DATED : June 20, 2007.

COMMON P.C. (IN CHAMBER).

1. Heard learned advocate Mr.Godbole for the petitioners and learned advocate Ms.Poddar for the respondents in Writ Petition No.2763 of 2006.

Mr.Godbole drew my attention to the order of Charity Commissioner dated 27th March 2006. It is before the elections. It is Exhibit "G" of this petition. Mr.Godbole particularly drew my attention to Paragraphs 2 and 7 of the said order, which read thus :-

> 2. The Election is for the post of 5 Trustees of which 3 Trustees from Bandra and 2 Trustees from Bombay (including Byculla Area). At the same time held election for 10 members of the advisory committee, which will be held elected by the voting for the election of 2 Trustees from Bombay Jamat will be held at Bombay Polling Centre from voters of Bombay Jamat.
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> . In additional 2 votes for Trustees for Bombay Jamat, the voter for the list of Bombay jamat, they have to vote for 10 Members of Advisory Committee at the same Bombay Polling Centre. As such every voter of Bombay Jamat as to vote for 2 Trustees in the secret ballot paper and 10 votes for advisory committee

in the secret ballot paper.

. The same thing will happen with Bandra Jamat. The voter of Bandra Jamat will have to vote in all 3 Trustees which are going to be elected and 10 votes for Advisory Committee Members. As such 1 voter has to give 13 votes by secret ballot papers.

7. The ballot paper for election of 2 Trustees for Mumbai Jamat is separate. And the ballot paper of 3 Trustees from Bandra Jamat will be separate. And the ballot paper for 10 Members of Advisory Committee will be separate and this 3 different ballot paper will be in different colours."

Mr.Godbole contends that the order of this Court was not properly interpreted by the Charity Commissioner. Elections for 2006 to 2009 have already been over and, therefore, this order i.e. Paras 2 and 7 of the order can be changed by the Charity Commissioner after hearing the clients of Mr.Godbole and Respondent Nos.1 to 61. It is,

therefore clarified that the Charity Commissioner to hear all the concerned parties i.e. the clients of Mr.Godbole i.e. the petitioners in this petition and the advocates for the respondents so far as it relates to Paragraphs 2 and 7 of the order dated 27th March 2006 and pass suitable order. It is also clarified that this will be for the next forthcoming election for the year 2009 to 2012. With these directions, the Writ Petition No.2763 of 2006 is disposed off.

2. So far as Civil Application No.2264 of 2006 is concerned, it is for modification of my orders dated 29th March 2005 and 27th June 2005. The grievance of Mr.Godbole for the applicants, after hearing at length, is that in the names suggested on page 46 of Abdul Razzaq Zainuddin, President, Bombay Bakar Kasai Jamat and Abdul Rashid Moulvi, President, Bandra Bakar Kasai Jamat, the name or nomenclature of the President, Byculla Area does not appear and this has deprived about 350 persons from participating in election i.e. by casting their votes. This fact is contradicted by the advocate for the respondents by contending that news paper advertisement was issued well in advance calling

upon those persons to participate and, therefore, this grievance has no substance.

3. In any case the two names, reproduced above on page 46, were for the purpose of clarification as to who shall be authorised to issue identity cards. Now the elections for 2006 to 2009 are over and, therefore, the Charity Commissioner while deciding and making the decision as per the directions in the aforesaid Writ Petition No.2763 of 2006, will also decide whether there is Jamat for Byculla Area and whether the President of Byculla Jamat like Bombay Bakar Kasai Jamat and Bandra Bakar Kasai Jamat can be authorised to issue identity cards. The Charity Commissioner to decide all these issues within six months from the first date of appearance which is given herein under. This Civil Application stands disposed off.

4. So far Writ Petition No.2729 of 2006 is concerned, nobody is present for the petitioners. Hence it is dismissed.

5. This order to be communicated by either of the sides to the Charity Commissioner within

three weeks from today and, they should appear before the Charity Commissioner on 18th July 2007 at 11.00 a.m. through their representatives and/or advocates.

[D.G.DESHPANDE,J]